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October 9, 2003

John Muleta, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th St. SW
Washington DC 20554

Re: CC Dkt No. 94-102: Ex Parte Comments of Toyota Motor Corporation

Dear Mr. Muleta:

As the E911 "Scope" proceeding has progressed, it has become apparent to Toyota that the Commission may decide to distinguish among telematics offerings, and to require Phase II E911 compliance only of those offerings that are the functional equivalent of mobile telephones. I write today to address that proposal with specificity.

Toyota does not currently offer a "personal calling" feature as part of its Lexus Link service. However, Toyota is now considering whether to add such an offering to its existing suite of services as Lexus Link migrates to a digital platform. Toyota is therefore interested in the matter. The regulations to which personal calling would be subject will play a large part in our decision whether to go forward with such an offering.

As Toyota has stated on the record, we believe that the regulation of any telematics offering is unnecessary and will pose serious burdens that can only deter the proliferation of these life saving services. We also continue to question the FCC's jurisdiction over telematics equipment and services. However, rather than reiterate these arguments, this letter is to call to your attention some potential pitfalls and to suggest certain regulations that may be less burdensome than others, if the Commission is determined to regulate telematics personal calling.

1. Definitional issues.

If the Commission determines to require E911 compliance of "personal calling," it is important to define what is meant by that term. Most telematics services are call center based: the push of a button connects a user to an operator, who then may provide a variety of safety or convenience services. Those services bear little resemblance to mobile telephony, even

though it may in some cases be technically possible for the call center operator to conference in and/or to connect the telematics user with a third party.

“Personal calling” is (and should be defined to be) when a telematics user may dial out directly to another number, of her own volition, without the any action of a human intermediary. In this special circumstance, the precise routing of a call may be viewed as immaterial: whether the call enters the public switched telephone network straight from the user’s car, or whether it is routed first through a call center will make no functional difference if the call goes to its ultimate, caller-determined destination without any intervention or value-added service by the call center. But by the same token, the mere ability of a call center to dial out and conference in third parties on behalf of a user does not make that service the functional equivalent of mobile telephony, and should not subject that service to regulation. Where an operator intervenes to connect a call after conversing with the driver, for example, there is a qualitative difference in the type of service offered, and one that should be dispositive from a regulatory standpoint.

2. *Accuracy, Reliability and PSAP Communication.*

It is unclear to Toyota whether and how a telematics unit would comply with the technical capabilities required by E911 Phase II. Because telematics units use stand-alone GPS systems, as opposed to the assisted GPS (“AGPS”), advanced forward link triangulation (“AFLT”), or similar systems generally used by wireless carriers, telematics providers will need to work closely with wireless carriers and public safety answering points (“PSAPs”) to develop and implement a technical solution allowing PSAPs to use location information that is compatible with the format generated by telematics units. Likewise, while telematics units generally provide location information that is far more accurate than, and comparably reliable with, the Commission’s handset-based standards, telematics providers may need a certain amount of case-by-case flexibility from the Commission on this or certain of its other technical requirements.¹

3. *Timetable.*

Toyota in its pleadings discussed at length the unique timing constraints faced by automobile manufacturers. It takes several years to bring a new vehicle from the drawing board to the showroom; that vehicle remains on the market for several more years without a major re-design; and every vehicle that is sold remains on the road often for ten years or more.

Vehicle modifications, including virtually anything touching on the vehicle’s electrical system, can only be implemented in the course of a major re-design. And any modification that would render a telematics unit E911 phase II compliant would need to be made

¹ Because Toyota uses an outside telematics service provider, OnStar, Toyota’s ability to meet the various technical standards depends in large part on OnStar. OnStar has informed Toyota that it does not anticipate any problems with meeting the Commission’s reliability and accuracy standards.

in connection with a major re-design. The Commission therefore should not require Phase II compliance of a model except in connection with a major re-design of that model.

Moreover, the long lead times that attend automobile manufacturing dictate that even if the Commission announced new regulations tomorrow, it would be several years before vehicles were sold that implemented those regulations. Toyota understands that at least one telematics service provider indicated that it might begin phasing in compliant hardware by calendar year 2006.² This is not the case for Toyota. The telematics equipment that will be installed in Lexus vehicles for model years 2006 and 2007 has already been designed, so there is little realistic prospect of compliance by that time. Nor can Toyota at this point commit to any specific time table or phase-in percentage beyond those years, because that time table will depend (among other factors) on the results of validation and testing, and upon the actions of various third-party suppliers.

Toyota would like to propose a well-defined and realistic phase-in period, but it simply cannot. The fact is that E911 compliance is not an issue that is susceptible to one-size-fits-all solution: witness the scores of individualized waivers that the Commission received from mobile phone providers, and the fact that the Commission ended up negotiating individualized compliance plans with each of the major carriers. If the Commission determines to require Phase II compliance of the telematics personal calling feature, it should work with each automaker and telematics provider that proposes to install and provide that service in order to devise an individualized path to compliance, or at very least should issue a Further Notice to afford the industry an opportunity to comment on potential paths to compliance.

4. No retroactivity.

Toyota is proud of how long its vehicles last. Toyotas and Lexus are known for their quality, dependability, and durability, and their owners often keep them on the road for ten years or more. This is good for consumers, of course, but it means that there will always be a large number of Toyotas and Lexus on the road that are using equipment from years prior.

It is critically important that the FCC not impose Phase II obligations on this installed base of units in operation. Unlike its regulation of cellular phones, which consumers typically replace after two or three years, the Commission should not require a specific level of compliance among all vehicle units in operation. Rather, if it chooses to regulate, it should limit those regulations only to the production and activation of new units.

Toyota has discovered that it is impracticable to retrofit telematics equipment. As a result of the Commission's analog sunset, Toyota was forced to look for some way to transition its existing analog base into digital, but was unable to do so. There was – and is – simply no feasible way for Toyota to retrofit a telematics unit.

I cannot emphasize this point enough. The regulation of new activations is burdensome, but the regulation of units in operation would be fatal to telematics offerings. If the

² OnStar Comments at 5 n.3.

Commission imposes obligations on units in operation, Toyota simply will not provide the service that carries those obligations.

5. *Conclusion.*

Numerous participants in this proceeding – including commenters from the public health and safety fields – have identified telematics as the proverbial goose that lays the golden egg. The Commission should be careful to avoid regulations that burden telematics, and discourage manufacturers from offering, and/or individuals from buying, those services. Toyota believes that the best course is simply to leave telematics alone. But if the Commission determines to require personal calling offerings to be E911 Phase II compliant, it should heed the business and technical realities that I have described, and impose any such regulations only to the extent set forth in this letter.

Thank you for your consideration of these matters. I have filed a copy of this letter in docket number CC 94-102 in accordance with the Commission's *ex parte* rules.

Very truly yours,

A handwritten signature in black ink, appearing to read 'M. West', with a long horizontal flourish extending to the right.

Douglas M. West
Senior Vice President
Government and Industry Affairs